

(23)

10/15/00
JC

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

JOHN RICHARD JAE, : NO. 1:00-CV-1090
Plaintiff :

v.

ROBERT CLARK, MARTIN L. :
DRAGOVICH, JOHN A. :
PALAKOVICH, ROBERT N. : JURY TRIAL DEMANDED
NOVOTNEY, MICHAEL J. KAZOR, :
and JOHN ANDRADE, :
Defendants :

2. On August 3, 2000, the Plaintiff filed an Amended Complaint naming Martin L. Dragovich, John A. Palakovich, Robert N. Novotney, Michael J. Kazor and John Andrade as additional defendants.

3. By Order dated August 9, 2000, this Honorable Court directed the Clerk of Court to serve Plaintiff's Amended Complaint on the new Defendants in accordance with Fed.R.Civ.P. 4.

4. Plaintiff's Amended Complaint was also served on the original Defendant, Dr. Clark, via a Waiver of Service of Summons dated August 14, 2000.

5. On August 24, 2000, the Plaintiff also filed a Motion for a Temporary Restraining Order and/or an Expedited Preliminary Injunction and a Brief and Affidavit in Support of that Motion.

6. By Order dated September 20, 2000, Magistrate Judge Smyser directed Defendants to file a brief in opposition to Plaintiff's Motion for a Temporary Restraining Order and/or an Expedited Preliminary Injunction.

7. On at least twelve prior occasions, Plaintiff has had federal actions or appeals dismissed as legally frivolous. See, Exhibit "A," documents in support of Motion to Revoke *In Forma Pauperis* Status and to Defer Filing of Responsive Pleading filed this date under separate cover.

8. During 1998, in two separate cases, this Honorable Court revoked Plaintiff's *in forma pauperis* status pursuant to 28 U.S.C. §1915(g) and then dismissed all three civil actions after Plaintiff failed to pay the filing fee in full. See, Exhibit "B," Documents in Support of Motion to Revoke *In Forma Pauperis* Status and To Defer Filing of Responsive Pleading filed this date under separate cover.

9. In a Report and Recommendation dated July 19, 2000, Magistrate Judge Smyser granted Defendant's motion to revoke inmate Jae's *in forma pauperis* status in the matter of John Richard Jae v. Dr. Laskey, M.D., Medical Director, Civil No. 1:CV-99-1610. See Exhibit "C", Documents in Support of Motion to Revoke *In Forma Pauperis* Status and to Defer Filing of Responsive Pleading filed this date under separate cover.

10. Pursuant to 28 U.S.C. § 1915(g), Plaintiff is not entitled to proceed *in forma pauperis* in this action and should be required to pay the filing fee in full before proceeding any further.

11. Defendants should not be required to respond to Plaintiff's Complaint unless and until Plaintiff pays the filing fee in full.

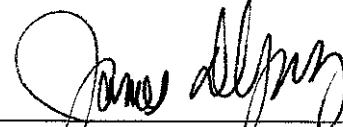
WHEREFORE, Defendant, Dr. Robert Clark, respectfully requests this Honorable Court grant its Motion to Revoke *In Forma Pauperis* Status and To Defer Filing of Responsive Pleading and enter the accompanying Court Order.

Respectfully submitted,

LAVERY, FAHERTY, YOUNG &
PATTERSON, P.C.

Date: 10/04/2000

By:



James D. Young, Esquire
Attorney I.D. #53904
P.O. Box 1245
Harrisburg, PA 17108-1245
(717) 233-6633
Attorney for Defendant,
Dr. Robert Clark

CERTIFICATE OF SERVICE

I, Linda L. Gustin, an employee of the law firm of Lavery, Faherty, Young & Patterson, P.C., do hereby certify that on this 4th day of October, 2000, I served a true and correct copy of the foregoing MOTION TO REVOKE PLAINTIFF'S IN FORMA PAUPERIS STATUS via U.S. First Class mail, postage prepaid, addressed as follows:

John Richard Jae *Legal Mail*
Inmate #BQ-3219
SCI-Camp Hill
P. O. Box 200
Camp Hill, PA 17001-0200

Robert Wolff
Assistant Chief Counsel
PA Department of Corrections
P. O. Box 598
Camp Hill, PA 17001-0598

Linda L. Gustin

Linda L. Gustin